

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KRISTI WORD,)
)
Plaintiff,)
)
 v.) NO. 3:10-0404
) Judge Haynes/Bryant
TENT RESTAURANT OPERATIONS,) **Jury Demand**
INC., et al.,)
)
Defendants.)

TO: The Honorable William J. Haynes, Jr.

REPORT AND RECOMMENDATION

Plaintiff Kristi Word has filed her Motion For Voluntary Dismissal (Docket Entry No. 20), pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. Plaintiff accurately states that there has been no counterclaim filed in this action.

No defendant has responded in opposition to plaintiff's motion nor has any objection to it been raised.

On the day following the filing of plaintiff's motion for voluntary dismissal, defendant State Farm Mutual Automobile Insurance Company, the uninsured motorist insurance carrier, filed its motion for summary judgment (Docket Entry No. 21). Neither this motion nor its supporting documentation makes any mention of plaintiff's motion for voluntary dismissal, which was filed a day earlier.

From a review of the record in this case, the undersigned Magistrate Judge finds that plaintiff's motion for voluntary dismissal pursuant to Rule 41(a)(2) should be **GRANTED**, that the complaint should be **DISMISSED** without prejudice, and that defendant State Farm's motion for summary judgment should be **DENIED** as moot.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that plaintiff's motion for voluntary dismissal should be **GRANTED**, that the complaint should be **DISMISSED** without prejudice, and that defendant State Farm's motion for summary judgment should be **DENIED** as moot.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'q denied, 474 U.S. 1111 (1986).

ENTERED this 9th day of November 2010.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge